

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 183 of 1999
with
Civil Application No. 2659 of 1999

and

APPEAL FROM ORDER No 230 of 1999
with
Civil Application No. 3730 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
- 1-5 No

SANTOKBEN JADEJA

Versus

GRAMCO FILMS

Appearance:

1. Appeal from Order No. 183 of 1999
MR P.M. Thakkar, Sr. Advocate with Mr. NAVIN K PAHWA
and Mr. Percy Kavina for appellant
MR S.B. VAKIL with Mr. AS VAKIL for Respondents
2. Appeal from Order No 230 of 1999
MR AS VAKIL for appellants
MR NAVIN K PAHWA for Respondent

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 29/07/1999

COMMON ORAL JUDGEMENT

1. This judgment shall govern disposal of the above two Appeals from Order arising from the order dated 10.3.1999 recorded below Ex.5 in Special Civil Suit No. 30 of 1999 by the learned 5th Joint Civil Judge (S.D.), Rajkot, whereby the learned trial Judge has allowed in part the application submitted by the plaintiff by issuing injunction against the defendants restraining them from depicting in the film "God Mother" the scene in which Rambhi is shown drinking liquor in the assembly on the occasion of a celebration and also shown Rambhi smoking cigarette in the Taluka Panchayat Office.

2. Aggrieved thereby the original plaintiff has filed Appeal from Order No. 183 of 1999 challenging the legality, validity and propriety of the order on the ground that the Hindi film "God Mother" is made after collecting information of the family of the plaintiff from Porbandar and Rajkot. It is further alleged that the dialogues, scene and the character of the movie are defaming the public image of the plaintiff and, therefore, the defendants are required to be prevented from screening, exhibiting, passing through the Censor Board, advertising and/or exhibiting the Hindi film "God Mother".

3. Aggrieved by the impugned order, the defendants have filed Appeal from Order No. 230 of 1999 challenging the legality, validity and propriety of the order on the ground that the order restraining the defendants from depicting in the Hindi film "God Mother" the scene of Rambhi drinking liquor and smoking cigarette is not defamatory to the plaintiff or Mer Community.

4. Suit in question was filed by the plaintiff Santokben Jadeja against Gramco Films and its director for declaration and permanent injunction and also for damages on the ground that the film "God Mother" is drawn from the real life of the plaintiff and her family members in a most derogatory and defamatory way and tends to injure the reputation and social status of the plaintiff and her family and entire community. Therefore, relief of declaratory decree of permanent perpetual injunction was sought for against the defendants.

5. Along with the suit, application Ex.5 was also submitted claiming relief restraining the defendants by way of temporary injunction not to release, exhibit or screen the Hindi film "God Mother" till disposal of the suit.

6. On service of notice, defendants appeared and contested the application Ex.5 and the suit by filing written statement and objections.

7. The learned trial Judge, after hearing the parties and considering the evidence on record produced and adduced and in the facts and circumstances emerging from the record of the case, recorded the finding as mentioned hereinabove which is impugned by the plaintiff and the defendants as well before this Court by filing the aforesaid two Appeals from order.

8. This Court has admitted both the Appeals and Civil Applications filed by both of them were fixed for hearing.

9. Today when the matters were called out for hearing of Civil Applications filed by both the parties, learned Sr. Counsel Mr. P.M. Thakkar with Mr. N.K. Pahwa and learned advocate Mr. S.B. Vakil with Mr. A.S. Vakil were present and they made joint statement that amicable settlement has been arrived at between both the parties which have been reduced into writing and the consent pursis was presented before this Court. They urged that the interim relief recorded by the learned trial Judge may suitably be modified in terms of the settlement arrived at between the parties in terms of consent pursis and both the Appeals from Order may be disposed of accordingly.

10. I have perused the consent pursis presented by both the parties which inter alia states as under:

(i) The scene between Rambhi & Jakhra at Circuit House immediately after the song 'Daru rum....' will be deleted.

(ii) Rambhi smoking.

Potrayal to be made more pronounced that she takes to smoking at the time of any crisis, to remember her husband 'Veeram'. Therefore, to make it relevant, to introduce a flash-back showing Veeram insisting his wife Rambhi to smoke. This will come after the following:

(a) Immediately after the scene where Rambhi opens the cupboard and picks up Veeram's revolver.

(b) Immediately after Rambhi throws Lakhubhai out of Taluka Panchayat office and sits down in the chair looking bewildered.

(iii) (a) Delete the scene showing the pouring of liquid portion from bottle to glasses to avoid any resemblance to liquor which is normally contained in bottle.

(b) Re-dub the portion to avoid the word "kandli aai ka Prasad...." To avoid bringing any relation to the most worshipped Goddess with any intoxicating portion."

11. Upon having perusal of the aforesaid consent pursis, it appears to be in consonance with the prayers made in the plaint and in application Ex.5. Therefore, there cannot be any objection in modifying the reliefs as sought for by both the parties.

12. In view of the aforesaid state of affairs, the order recorded by the learned trial Judge is modified to the extent indicated in the consent pursis. Resultantly both the Appeals from Order are disposed of by modifying the interim relief granted by the learned trial Judge in terms of the consent pursis which are reproduced in verbatim in paragraph 10 above. The order recorded by the learned trial Judge is modified to the extent indicted in the consent pursis. The consent pursis signed and submitted by learned advocates for both the parties is retained on record.

13. In Civil Applications, rule is made absolute to the extent indicated in the consent pursis with no order as to costs.

(karan)